

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00291
Petitioner: Paula Poplas
Respondent: Department of Local Government Finance
Parcel #: 008-08-15-0418-0028
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Department of Local Government Finance ("DLGF") issued notice of a corrected assessment for the subject property on March 31, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated August 9, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 23, 2004.

Facts

5. The subject property is located at 2909 W. 73rd Place, Merrillville.
6. The subject property is a single family, bi-level with a detached garage on a lot measuring 82 feet by 120 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF:
Land \$19,300 Improvements \$79,500 Total \$98,800.
9. The assessed value requested by the Petitioner:
Land \$19,300 Improvements \$70,700 Total \$90,000.

10. The following persons were present and sworn as witnesses at the hearing:
For Petitioner — Paula A. Cross (Poplas), property owner,
For Respondent — Sharon Elliott, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a) Petitioner contends first floor (lower level) is only ½ finished. *Cross testimony; Petitioner Exhibit 8, 9*
 - b) The three seasons room is 10 feet by 12 feet and the deck is 3 feet by 15 feet. *Cross testimony.*
 - c) Petitioner contends the 4 feet by 6 feet masonry stoop is not a stoop, but part of the walkway. *Cross testimony; Petitioner Exhibit 8.*
12. Summary of Respondent’s contentions in support of assessment:
- a) It consists of a concrete block first floor (lower level) with 936 square feet, and as frame second floor (upper level) with 936 square feet. *Elliott testimony; Respondent Exhibit 2.*
 - b) Respondent agrees that 1st floor (lower level) is 50 percent unfinished. *Elliott testimony.*
 - c) The three seasons room is considered to be an enclosed frame porch (“EFP”). It should measure 10 feet by 12 feet. The deck, 3 feet by 15 feet, must be added to the assessment. *Elliott testimony.*
 - d) Respondent agrees to remove the masonry stoop. *Elliott testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 294,
 - c) Exhibits:
 - Petitioner Exhibit 1: Marriage license,
 - Petitioner Exhibit 2: Form 11,
 - Petitioner Exhibit 3: Notice of Corrected Assessment,
 - Petitioner Exhibit 4: 2001 Subject Property Record Card (“PRC”),
 - Petitioner Exhibit 5: 2002 Subject Property Record Card,

Petitioner Exhibit 6: A work estimate prepared by House Doctors with measurements,
Petitioner Exhibit 7: A work estimate from F/S Mechanical for electrical repair,
Petitioner Exhibit 8: Pictures of front entry,
Petitioner Exhibit 9: Pictures of lower level,
Respondent Exhibit 1: Form 139L Petition,
Respondent Exhibit 2: PRC for subject property,
Respondent Exhibit 3: Photograph of subject property,
Respondent Exhibit 4: List of 20 comparables with the PRC and photographs for 3 properties,
Board Exhibit A: Form 139L Petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet.

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. There is sufficient evidence to support the Petitioner's contention. This conclusion was arrived at because the parties agreed that the first floor (lower level) should be valued to reflect 468 square feet of unfinished area. The EFP should measure 10 feet by 12 feet. A deck measuring 3 feet by 15 feet should be added to the assessment. The parties agreed to remove the stoop. *Cross testimony; Elliott testimony; Petitioner Exhibit 6, 8, 9.*

Conclusion

- 16. The Petitioner made a case that the Respondent did not dispute. The Board finds in favor of Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.